

**Exhibit A**

**Plaintiffs' Proposed  
Protective Order**

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21 Proposed Classes*

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46  
47 UNITED STATES DISTRICT COURT  
48  
49 NORTHERN DISTRICT OF CALIFORNIA  
50  
51 OAKLAND DIVISION

52 SOCIÉTÉ DU FIGARO, SAS, a French simplified  
53 joint-stock company; L'ÉQUIPE 24/24 SAS, a  
54 French simplified joint-stock company, on behalf of  
55 themselves and all others similarly situated; and LE  
56 GESTE, a French association, on behalf of itself, its  
57 members, and all others similarly situated,

58 No. 4:22-cv-04437-YGR

59 **DRAFT STIPULATED PROTECTIVE  
60 ORDER**

61 Hon. Yvonne Gonzalez Rogers

62 Plaintiffs,

63 v.

64 APPLE INC., a California corporation,

65 Defendant.

1        **1. PURPOSES AND LIMITATIONS**

2        Disclosure and discovery activity in this action are likely to involve production of  
 3        confidential, proprietary, or private information for which special protection from public disclosure  
 4        and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,  
 5        plaintiffs Société du Figaro, SAS; L'Équipe 24/24 SAS; and LE GESTE, on the one hand, and  
 6        defendant Apple Inc., on the other (collectively, the Parties, and individually, a Party) hereby  
 7        stipulate to and petition the Court to enter the following Stipulated Protective Order. The Parties  
 8        acknowledge that this Order does not confer blanket protections on all disclosures or responses to  
 9        discovery and that the protection it affords from public disclosure and use extends only to the limited  
 10       information or items that are entitled to confidential treatment under the applicable legal principles.  
 11       The Parties further acknowledge, as set forth in Section 13.3, below, that this Stipulated Protective  
 12       Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets  
 13       forth the procedures that must be followed and the standards that will be applied when a Party seeks  
 14       permission from the Court to file material under seal.

15       **2. DEFINITIONS**

16       2.1       Challenging Party: a Party or Non-Party that challenges the designation of information  
 17       or items under this Order.

18       2.2       “CONFIDENTIAL” Information or Items: information (regardless of how it is generated,  
 19       stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure  
 20       26(c).

21       2.3       Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as  
 22       their support staff).

23       2.4       Designated House Counsel: House Counsel who seek access to “HIGHLY  
 24       CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this matter.

25       2.5       Designating Party: a Party or Non-Party that designates information or items that it  
 26       produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY  
 27       CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
 28       CODE.”

1           2.6    Disclosure or Discovery Material: all items or information, regardless of the medium  
2 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
3 transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery  
4 in this matter.

5           2.7    Expert: a person with specialized knowledge or experience in a matter pertinent to the  
6 litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant  
7 in this action, (2) is not a past or current employee of a Party or of a Party's competitor, and (3) at the time  
8 of retention, is not anticipated to become an employee of a Party or of a Party's competitor.

9           2.8    "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items:  
10 extremely sensitive "Confidential Information or Items," disclosure of which to another Party or Non-  
11 Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

12           2.9    "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items: extremely  
13 sensitive "Confidential Information or Items" representing computer code and associated comments  
14 and revision histories, formulas, engineering specifications, or schematics that define or otherwise  
15 describe in detail the algorithms or structure of software or hardware designs, disclosure of which to  
16 another Party or Non-Party would create a substantial risk of serious harm that could not be avoided  
17 by a less restrictive means.

18           2.10   House Counsel: attorneys who are employees of a party to this action. House Counsel  
19 does not include Outside Counsel of Record or any other outside counsel.

20           2.11   Non-Party: any natural person, partnership, corporation, association, or other legal  
21 entity not named as a Party to this action.

22           2.12   Outside Counsel of Record: attorneys who are not employees of a party to this action  
23 but are retained to represent or advise a party to this action and have appeared in this action on behalf  
24 of that party or are affiliated with a law firm which has appeared on behalf of that party.

25           2.13   Party: any party to this action, including all of its officers, directors, employees,  
26 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

27           2.14   Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material  
28 in this action.

1           2.15 Professional Vendors: persons or entities that provide litigation support services (e.g.,  
2 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing,  
3 or retrieving data in any form or medium) and their employees and subcontractors.

4           2.16 Protected Material: any Disclosure or Discovery Material that is designated as  
5 “CONFIDENTIAL,” as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or as  
6 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

7           2.17 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
8 Producing Party.

9           **3. SCOPE**

10           The protections conferred by this Stipulation and Order cover not only Protected Material (as  
11 defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies,  
12 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or  
13 presentations by Parties or their Counsel that might reveal Protected Material. However, the protections  
14 conferred by this Stipulation and Order do not cover the following information: (a) any information that  
15 is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public  
16 domain after its disclosure to a Receiving Party as a result of publication not involving a violation of  
17 this Order, including becoming part of the public record through trial or otherwise; and (b) any  
18 information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party  
19 after the disclosure from a source who obtained the information lawfully and under no obligation of  
20 confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a  
21 separate agreement or order.

22           **4. DURATION**

23           Even after final disposition of this litigation, the confidentiality obligations imposed by this  
24 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
25 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
26 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion  
27 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time  
28 limits for filing any motions or applications for extension of time pursuant to applicable law.

1       **5. DESIGNATING PROTECTED MATERIAL**

2       5.1     Exercise of Restraint and Care in Designating Material for Protection. Each Party or  
 3     Non-Party that designates information or items for protection under this Order must take care to limit  
 4     any such designation to specific material that qualifies under the appropriate standards. To the extent  
 5     that it is practical to do so, the Designating Party must designate for protection only those parts of  
 6     material, documents, items, or oral or written communications that qualify – so that other portions of  
 7     the material, documents, items, or communications for which protection is not warranted are not swept  
 8     unjustifiably within the ambit of this Order.

9           Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to  
 10    be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber  
 11    or retard the case development process or to impose unnecessary expenses and burdens on other  
 12    Parties) expose the Designating Party to sanctions.

13          If it comes to a Designating Party's attention that information or items that it designated for  
 14    protection do not qualify for protection, that Designating Party must promptly notify all other Parties  
 15    that it is withdrawing the mistaken designation.

16       5.2     Manner and Timing of Designations. Except as otherwise provided in this Order (see,  
 17    e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
 18    Discovery Material that qualifies for protection under this Order must be clearly so designated before  
 19    the material is disclosed or produced.

20           Designation in conformity with this Order requires:

21           (a)    for information in documentary form (e.g., paper or electronic documents, but  
 22    excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party  
 23    affix the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
 24    or “HIGHLY CONFIDENTIAL – SOURCE CODE” to each page that contains protected material. If  
 25    only a portion or portions of the material on a page qualifies for protection, the Producing Party also  
 26    must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins)  
 27    and must specify, for each portion, the level of protection being asserted.

1                   A Party or Non-Party that makes original documents or materials available for inspection  
 2 need not designate them for protection until after the inspecting Party has indicated which material it  
 3 would like copied and produced. During the inspection and before the designation, all of the material  
 4 made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 5 ONLY.” After the inspecting Party has identified the documents it wants copied and produced, the  
 6 Producing Party must determine which documents, or portions thereof, qualify for protection under  
 7 this Order. Then, before producing the specified documents, the Producing Party must affix the  
 8 appropriate legend (“CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 9 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”) to each page that contains Protected  
 10 Material. If only a portion or portions of the material on a page qualifies for protection, the Producing  
 11 Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
 12 margins) and must specify, for each portion, the level of protection being asserted.

13                   (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
 14 Designating Party identify on the record, before the close of the deposition, hearing, or other proceeding,  
 15 all protected testimony and specify the level of protection being asserted. When it is impractical to  
 16 identify separately each portion of testimony that is entitled to protection and it appears that substantial  
 17 portions of the testimony may qualify for protection, the Designating Party may invoke on the record  
 18 (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21 days to  
 19 identify the specific portions of the testimony as to which protection is sought and to specify the level  
 20 of protection being asserted. Only those portions of the testimony that are appropriately designated for  
 21 protection within the 21 days shall be covered by the provisions of this Stipulated Protective Order.  
 22 Alternatively, a Designating Party may specify, at the deposition or up to 21 days afterwards if that  
 23 period is properly invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or  
 24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

25                   Parties shall give the other Parties notice if they reasonably expect a deposition, hearing,  
 26 or other proceeding to include Protected Material so that the other Parties can ensure that only authorized  
 27 individuals who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present  
 28

1 at those proceedings. The use of a document as an exhibit at a deposition shall not in any way affect its  
 2 designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3 Transcripts containing Protected Material shall have an obvious legend on the title page  
 4 that the transcript contains Protected Material, and the title page shall be followed by a list of all pages  
 5 (including line numbers as appropriate) that have been designated as Protected Material and the level  
 6 of protection being asserted by the Designating Party. The Designating Party shall inform the court  
 7 reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day period  
 8 for designation shall be treated during that period as if it had been designated “HIGHLY  
 9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the  
 10 expiration of that period, the transcript shall be treated only as actually designated.

11 (c) for information produced in some form other than documentary and for any  
 12 other tangible items, that the Producing Party affix in a prominent place on the exterior of the container  
 13 or containers in which the information or item is stored the legend “CONFIDENTIAL,” “HIGHLY  
 14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
 15 CODE.” If only a portion or portions of the information or item warrant protection, the Producing  
 16 Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection  
 17 being asserted.

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
 19 designate qualified information or items does not, standing alone, waive the Designating Party’s right  
 20 to secure protection under this Order for such material. Upon timely correction of a designation, the  
 21 Receiving Party must make reasonable efforts to assure that the material is treated in accordance with  
 22 the provisions of this Order.

23 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

24 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
 25 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality  
 26 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
 27 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a

1 confidentiality designation by electing not to mount a challenge promptly after the original designation  
2 is disclosed.

3       6.2     Meet and Confer. The Challenging Party shall initiate the dispute resolution process by  
4 providing written notice of each designation it is challenging and describing the basis for each challenge.  
5 To avoid ambiguity as to whether a challenge has been made, the written notice must recite that the  
6 challenge to confidentiality is being made in accordance with this specific paragraph of the Protective  
7 Order. The Parties shall attempt to resolve each challenge in good faith and must begin the process by  
8 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient) within  
9 14 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for  
10 its belief that the confidentiality designation was not proper and must give the Designating Party an  
11 opportunity to review the designated material, to reconsider the circumstances, and, if no change in  
12 designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed  
13 to the next stage of the challenge process only if it has engaged in this meet and confer process first or  
14 establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely  
15 manner.

16       6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
17 intervention, they shall follow the Discovery Standing Order for Magistrate Judge Thomas S. Hixson  
18 (Standing Order), or proceed as otherwise directed by the Court. In such event, the Parties may: (a)  
19 arrange a telephonic conference with the Magistrate Judge as contemplated by the Standing Order; or  
20 (b) prepare and file a joint statement as contemplated by the Standing Order. Any joint statement filed  
21 pursuant to this paragraph 6.3 shall comply with Civil Local Rule 79-5, if applicable, and shall be filed  
22 and served within 21 days of the initial notice of challenge or within 14 days of the Parties agreeing  
23 that the meet and confer process will not resolve their dispute, whichever is earlier. Each such joint  
24 statement must contain an attestation affirming that the Parties have complied with the meet and confer  
25 requirements imposed by the Standing Order. Failure by the Designating Party to file such a joint  
26 statement within the 21-day period set forth above (or 14-day period, if applicable) shall automatically  
27 waive the confidentiality designation for each challenged designation.

1                   The burden of persuasion in any such challenge proceeding shall be on the Designating Party.  
 2 Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary  
 3 expenses and burdens on other Parties) may expose the Challenging Party to sanctions. Unless the  
 4 Designating Party has waived the confidentiality designation by failing to file a joint statement to retain  
 5 confidentiality as described above, all Parties shall continue to afford the material in question the level  
 6 of protection to which it is entitled under the Producing Party's designation until the Court rules on the  
 7 challenge.

8                   **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

9                   7.1       Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
 10 produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending,  
 11 or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of  
 12 persons and under the conditions described in this Order. When the litigation has been terminated, a  
 13 Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

14                   Protected Material must be stored and maintained by a Receiving Party at a location and in a  
 15 secure manner that ensures that access is limited to the persons authorized under this Order.

16                   7.2       Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by  
 17 the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
 18 information or item designated “CONFIDENTIAL” only to:

19                   (a)       the Receiving Party's Outside Counsel of Record in this action, as well as  
 20 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
 21 information for this litigation and who have signed the “Acknowledgment and Agreement to Be  
 22 Bound” that is attached hereto as Exhibit A;

23                   (b)       the officers, directors, and employees (including House Counsel) of the  
 24 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed  
 25 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

26                   (c)       Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
 27 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to  
 28 Be Bound” (Exhibit A);

1 (d) the Court and its personnel;

2 (e) court reporters and their staff, professional jury or trial consultants, and  
3 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
4 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

5 (f) mock jurors who have signed an "Acknowledgment and Agreement to Be  
6 Bound" (Exhibit A), the content of which shall be agreed upon by the Parties;

7 (g) during his or her deposition, a witness in the action to whom disclosure is  
8 reasonably necessary and: (i) who has signed the "Acknowledgement or Agreement To Be Bound" that  
9 is attached hereto as Exhibit A; or (ii) who has been advised on the record that the information or item is  
10 subject to a protective order and cannot be disclosed, and who also is an author or recipient of the  
11 information or item, or a custodian or other person who otherwise possessed or knew the information,  
12 unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition  
13 testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court  
14 reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

15 (h) the author or recipient of a document containing the information or a custodian  
16 or other person who otherwise possessed or knew the information.

17 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" and  
18 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items. Unless otherwise ordered by  
19 the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
20 information or item designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or  
21 "HIGHLY CONFIDENTIAL – SOURCE CODE" only to:

22 (a) the Receiving Party's Outside Counsel of Record in this action, as well as  
23 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
24 information for this litigation and who have signed the "Acknowledgment and Agreement to Be  
25 Bound" that is attached hereto as Exhibit A;

26 (b) Designated House Counsel of the Receiving Party (i) who has no involvement  
27 in competitive decision-making, (ii) to whom disclosure is reasonably necessary for this litigation, (iii)

1 who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
2 A, and (iv) as to whom the Designating Party has agreed in writing.

3 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
4 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to  
5 Be Bound” (Exhibit A), without disclosure of the identity of the Expert as long as the Expert is not a  
6 current officer, director, or employee of a competitor of a Party or anticipated to become one;

7 (d) the Court and its personnel;

8 (e) court reporters and their staff, professional jury or trial consultants, and  
9 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
10 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (f) mock jurors who have signed an Undertaking, the content of which shall be  
12 agreed upon by the Parties; and

13 (g) the author or recipient of a document containing the information or a custodian  
14 or other person who otherwise possessed or knew the information.

15 **8. SOURCE CODE**

16 (a) To the extent production of source code becomes necessary in this case, a  
17 Producing Party may designate source code as “HIGHLY CONFIDENTIAL – SOURCE CODE” if it  
18 compromises or includes confidential, proprietary, or trade secret source code.

19 (b) Protected Material designated as “HIGHLY CONFIDENTIAL – SOURCE  
20 CODE” shall be subject to all of the protections afforded to “HIGHLY CONFIDENTIAL –  
21 ATTORNEYS’ EYES ONLY” information and may be disclosed only to the individuals to whom  
22 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information may be disclosed, as set  
23 forth in Paragraph 7.3, with the exception of Designated House Counsel.

24 (c) Any source code produced in discovery shall be made available for inspection in  
25 a format through which it could be reasonably reviewed and searched during normal business hours or  
26 other mutually agreeable times at a location that is mutually agreed upon. The source code shall be made  
27 available for inspection on a secured computer in a secured room without Internet access or network  
28 access to other computers, and the Receiving Party shall not copy, remove, or otherwise transfer any

1 portion of the source code onto any recordable media or recordable device. The Producing Party may  
2 visually monitor the activities of the Receiving Party's representatives during any source code review,  
3 but only to ensure that there is no unauthorized recording, copying, or transmission of the source code.

4 (d) The Receiving Party may request paper copies of limited portions of source code  
5 that are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other  
6 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing the  
7 source code other than electronically as set forth in Paragraph 8(c) in the first instance. The Producing  
8 Party shall provide all such source code in paper form including Bates numbers and the label  
9 "HIGHLY CONFIDENTIAL – SOURCE CODE." The Producing Party may challenge the amount of  
10 source code requested in hard copy form pursuant to the dispute resolution procedure and timeframes  
11 set forth in Paragraph 6 whereby the Producing Party is the "Challenging Party" and the Receiving  
12 Party is the "Designating Party" for purposes of dispute resolution.

13 (e) The Receiving Party shall maintain a record of any individual who has inspected  
14 any portion of the source code in electronic or paper form. The Receiving Party shall maintain all paper  
15 copies of any printed portions of the source code in a secured, locked area. The Receiving Party shall  
16 not create any electronic or other images of the paper copies and shall not convert any of the information  
17 contained in the paper copies into any electronic format. The Receiving Party shall only make additional  
18 paper copies if such additional copies are (1) necessary to prepare court filings, pleadings, or other  
19 papers (including a testifying expert's expert report), (2) necessary for deposition, or (3) otherwise  
20 necessary for the preparation of its case. Any paper copies used during a deposition shall be retrieved  
21 by the Producing Party at the end of the day and must not be given to or left with a court report or any  
22 other unauthorized individual.

23 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**  
24 **LITIGATION**

25 If a Party is served with a subpoena or a court order issued in other litigation that compels  
26 disclosure of any information or items designated in this action as "CONFIDENTIAL," "HIGHLY  
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE  
28 CODE" that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a determination by the Court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

**10. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION**

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the Court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

## **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

**12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL**

13.1. The production without manual review of any privileged or otherwise protected document or ESI, whether inadvertent or otherwise, is not and shall not be deemed a waiver or impairment of any claim of privilege or protection arising under the attorney-client privilege, the protection afforded to work-product materials, or any other privilege or protection from discovery,

1 in these cases or in any other federal or state proceeding, as long as the Producing Party follows the  
2 procedure in Section 12.2.

3 13.2. If any Producing Party learns that its privileged or protected material has been  
4 produced, it must promptly notify the Receiving Parties in writing. The Producing Party and the  
5 Receiving Parties shall then apply the procedures and terms set forth in Sections 12.3 and 12.4.

6 13.3. Upon a request from any Producing Party who has inadvertently produced Discovery  
7 Material that it believes is privileged and/or protected, each Receiving Party shall immediately return  
8 such Protected Material or Discovery Material and all copies to the Producing Party, or destroy such  
9 Discovery Material and certify that destruction to the Producing Party.

10 13.4. Nothing herein shall prevent the Receiving Party from preparing a record for its own  
11 use containing the date, author, addresses, and topic of the inadvertently produced Discovery  
12 Material and such other information as is reasonably necessary to identify the Discovery Material  
13 and describe its nature to the Court in any motion to compel production of the Discovery Material.

14 13.5. Nothing herein is intended to shift the burden imposed by law, in the event of a  
15 challenge by any Receiving Party, of establishing the privileged or protected nature of any privileged  
16 or protected information.

17 13.6. Nothing herein is intended to or shall serve to limit any Producing Party's rights to  
18 conduct a review of documents or ESI (including metadata) for relevance, responsiveness, and/or  
19 privilege or protection from discovery before production.

20 **13. MISCELLANEOUS**

21 14.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its  
22 modification by the Court in the future.

23 14.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no  
24 Party waives any right it otherwise would have to object to disclosing or producing any information or  
25 item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any  
26 right to object on any ground to use in evidence of any of the material covered by this Protective Order.

27 14.3 Filing Protected Material. Without written permission from the Designating Party or a  
28 court order secured after appropriate notice to all interested persons, a Party may not file in the public

1 record in this action any Protected Material. A Party that seeks to file under seal any Protected Material  
2 must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to  
3 a court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local  
4 Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at  
5 issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a  
6 Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5 is  
7 denied by the Court, then the Receiving Party may file the information in the public record unless  
8 otherwise instructed by the Court.

9 **14. FINAL DISPOSITION**

10 Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
11 Receiving Party must return all Protected Material to the Producing Party or destroy such material. As  
12 used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
13 summaries, and any other format reproducing or capturing any of the Protected Material. Whether the  
14 Protected Material is returned or destroyed, the Receiving Party must submit a written certification to  
15 the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day  
16 deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned  
17 or destroyed and (2) affirms that the Receiving Party have not retained any copies, abstracts,  
18 compilations, summaries or any other format reproducing or capturing any of the Protected Material.  
19 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion  
20 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial  
21 exhibits, expert reports, attorney work product, and consultant and expert work product, even if such  
22 materials contain Protected Material. Any such archival copies that contain or constitute Protected  
23 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

24 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

25  
26 DATED: December , 2022

27  
28 Respectfully submitted,

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23 *Proposed Classes*

24 Dated: December 2022 GIBSON, DUNN & CRUTCHER LLP

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## **ORDER**

Pursuant to the stipulation of the Parties, **IT IS SO ORDERED.**

Dated this \_\_\_\_ day of \_\_\_\_\_ 2022.

Hon. Yvonne Gonzalez Rogers  
UNITED STATES DISTRICT JUDGE

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full business address], declare under  
5 penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that  
6 was issued by the United States District Court for the Northern District of California on  
7 \_\_\_\_\_ [date] in the case of *Société du Figaro, SAS, et al. v. Apple Inc.*, Case No. 4:22-  
8 cv-04437-YGR. I agree to comply with and to be bound by all the terms of this Stipulated Protective  
9 Order and I understand and acknowledge that failure to so comply could expose me to sanctions and  
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any  
11 information or item that is subject to this Stipulated Protective Order to any person or entity except in  
12 strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the Northern  
14 District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even  
15 if such enforcement proceedings occur after termination of this action.

16 I hereby appoint \_\_\_\_\_ [print or type full name] of  
17 \_\_\_\_\_ [print or type full  
18 address and telephone number] as my California agent for service of process in connection with this  
19 action or any proceedings related to enforcement of this Stipulated Protective Order.

20 Date: \_\_\_\_\_

21 City and State where sworn and signed: \_\_\_\_\_

22 Printed name: \_\_\_\_\_

23 Signature: \_\_\_\_\_